

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

**BRIAN CARR, *et al.*,**

**Plaintiffs,**

**v.**

**MICHAEL CARVAJAL, DIRECTOR,  
FEDERAL BUREAU OF PRISONS,**

**Defendant.**

**No. 2:14-cv-00001-JMS-MJD**

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**DECLARATION OF DAVID J. LEVISS**

I, David J. Levis, declare under penalty of perjury that the following is true and correct:

1. I am a partner of the law firm O'Melveny & Myers LLP ("O'Melveny"), counsel to Plaintiffs Brian Carr, Mark Crenshaw, Tron Kent, and John Wilson ("Plaintiffs") in the above-captioned matter. I am a member in good standing of the Bar of New York and the Bar of the District of Columbia, and I am admitted to practice in the Southern District of Indiana.

2. I respectfully submit this declaration in support of the accompanying Plaintiffs' Motion for Attorney's Fees and Costs ("Motion").

3. Attached as Exhibit A is a true and correct copy of the Settlement Agreement and Release ("Settlement Agreement") between Plaintiffs and the Federal Bureau of Prisons ("BOP") in the above-captioned action, executed on May 29, 2020.

4. Attached as Exhibit B are true and correct copies of the engagement letters between O'Melveny and each of the four Plaintiffs in the above-captioned action, Brian Carr, Mark Crenshaw, Tron Kent, and John Wilson. Each letter provides that, although the services

provided will be pro bono, any attorney's fees or costs recovered will be retained by the firm, and no part of the award will be paid to the Plaintiffs.

5. Attached as Exhibit C is a true and correct copy of the contemporaneous timekeeping records maintained by O'Melveny for the time expended on the above-captioned action by each of the attorneys and paralegals listed in the Motion. As noted in the Motion, timekeeping records have been excluded for all timekeepers who worked fewer than 50 hours on this matter. Some time entry narratives have been edited to preserve attorney-client privilege and work product protections.

6. As reflected in the table in the Motion, the following timekeepers provided support to this matter during the past seven years:

a. I, **David J. Leviss**, am a Partner at O'Melveny. I graduated from New York University School of Law in 1997 and clerked for the Honorable Colleen McMahon of the U.S. District Court for the Southern District of New York. Before joining O'Melveny in February 2011, I served as a trial attorney with the Civil Division of the U.S. Department of Justice and was Chief Oversight Counsel to the U.S. House of Representatives Committee on Energy & Commerce. I have two decades of experience litigating cases under the False Claims Act, and also defend companies under investigation in Congress, while maintaining an active pro bono practice. I have supervised this litigation from its inception in 2013 through to present.

b. **Scott Hammack** is a Counsel at O'Melveny. He graduated from Columbia Law School. Mr. Hammack is an accomplished litigator specializing in antitrust and competition litigation, class action litigation, and public policy. He has extensive experience briefing and litigating disputes, having worked on appellate briefs, argued

before the D.C. Circuit Court of Appeals, and participated in multiple arbitrations and evidentiary hearings. Mr. Hammack maintains an active pro bono practice focusing on civil liberties issues. His experience includes representing clients in civil liberties litigation against state and federal governmental entities, including under the Religious Freedom Restoration Act and the Voting Rights Act. Before joining the Firm, Mr. Hammack was a law clerk at the National Legal Headquarters of the American Civil Liberties Union.

c. **Brad Garcia** is a Counsel at O'Melveny. He graduated from Harvard Law School and clerked for Associate Justice Elena Kagan on the U.S. Supreme Court, and the Honorable Thomas B. Griffith on the U.S. Court of Appeals, D.C. Circuit. He has drafted numerous briefs in the U.S. Supreme Court and state and federal appellate and trial courts. Mr. Garcia represents clients in a wide variety of matters, with a particular focus in patent and insurance law, but with experience spanning criminal law, class actions, ERISA, federal jurisdiction, product defect and liability, and other complex litigation matters.

d. **Jessica Thorn** is a former Counsel at O'Melveny. She graduated from Georgetown University Law Center. Ms. Thorn represents clients in a variety of complex litigation matters, including representing financial institutions in litigation relating to mortgage-backed securities and ERISA-related litigation with a particular focus on fiduciary issues. She also has significant experience with the White Collar Defense and Corporate Investigations practice and counseling foreign and domestic clients in securing the approval of the Committee on Foreign Investment in the United States (CFIUS) for foreign investments in U.S. critical infrastructure. Ms. Thorn left the firm in 2018.

e. **Meredith Garagiola** is a Counsel at O'Melveny. She graduated from Georgetown University Law Center. Ms. Garagiola specializes in white collar criminal defense and corporate investigations. Ms. Garagiola's practice extends to criminal and civil litigation in federal and state courts, internal investigations, and international anti-corruption compliance counseling. Outside of her practice, Ms. Garagiola is actively involved in O'Melveny's pro bono program.

f. **Sergei Zaslavsky** is a Counsel at O'Melveny. He graduated from Harvard Law School. Zaslavsky is an antitrust attorney with broad experience in trials, regulatory merger reviews, conduct investigations, antitrust audits, and antitrust counseling. Mr. Zaslavsky effectively represents his clients by being both detail-oriented and strategic, and by studying his clients' businesses to understand how legal questions intersect with marketplace realities. Mr. Zaslavsky has a diverse and deep set of experience, having worked on both litigation and regulatory matters, represented both plaintiffs and defendants, and prepared both expert and fact witnesses.

g. **Lindsey Love** is a Counsel at O'Melveny. She graduated from Georgetown University Law Center. Love's practice includes representing management in labor arbitrations involving contract interpretation, discipline, and discharge disputes and assisting management with collective bargaining negotiations. Ms. Love also has assisted in obtaining preliminary injunctions barring illegal slowdown efforts by unions and obtaining Department of Justice clearance for an airline merger.

h. **Carolyn Appel** is a former litigation associate at O'Melveny. She graduated from George Washington University Law School. Ms. Appel left the firm in 2018.

i. **Darcy Meals** is a former associate at O'Melveny. She graduated from the University of California, Los Angeles School of Law and clerked for the Honorable Frederick Motz, U.S. District Court, District of Maryland. Ms. Meals was a litigator who specialized in white collar criminal defense, corporate investigations, product liability disputes, and mass torts. Ms. Meals advised and defended clients facing criminal investigations, audits, and internal investigations. In addition, she provided regulatory compliance counseling and litigation services in federal court. Ms. Meals left the firm in 2016.

j. **Jacob D. Charles** is a former associate at O'Melveny. He graduated from Duke University School of Law and clerked for the Honorable Colleen McMahon on the U.S. District Court for the Southern District of New York and the Honorable Allyson K. Duncan on the U.S. Court of Appeals for the Fourth Circuit. His practice focused on white collar criminal defense and government investigations. Mr. Charles left O'Melveny in 2015.

k. **Jeremy Girton** is an associate at O'Melveny. He graduated from Columbia Law School and served as a law clerk for Chief Judge Colleen McMahon of the U.S. District Court for the Southern District of New York and for Judge Jane Kelly of the U.S. Court of Appeals for the Eighth Circuit. Mr. Girton focuses on appellate litigation, criminal defense, and government investigations. He has authored briefs in multiple federal and state appellate courts, including the U.S. Supreme Court, on subjects including administrative law, criminal procedure, and constitutional law. Mr. Girton maintains an active pro bono practice focused on criminal defense and civil rights issues.

l. **Joanna Nairn** is a former associate at O'Melveny. She graduated from Harvard Law School and clerked for the Honorable Justice Morris J. Fish at the Supreme Court of Canada. Ms. Nairn's practice encompassed a diverse range of substantive areas, including commercial litigation, civil procedure, torts, and professional negligence. Ms. Nairn left the firm in 2014.

m. **John McDermott** is a former associate at O'Melveny. He graduated from Georgetown University Law Center. Mr. McDermott represented corporate clients in all stages of litigation, with a focus on complex litigation and class action defense. Mr. McDermott left the firm in 2019.

n. **Matthew Gill** is a former associate at O'Melveny. He graduated from the University of Virginia Law School. Mr. Gill concentrated his practice in Corporate & Internal Investigations and Business Competition. His experience includes False Claims Act defense, government investigations and complex litigation. Mr. Gill left the firm in 2018.

o. **Nabil Ansari** is an Associate in O'Melveny's Washington, DC office. He graduated from New York University of Law.

p. **Roger Yang** is a former Associate at O'Melveny. He graduated from Columbia Law School. Mr. Yang left the firm in 2019.

q. **Alex Stemkovsky** is a Staff Attorney at O'Melveny. He graduated from New York law school. He left the firm in 2017.

r. **Allyson Deitrick** is a former Staff Attorney at O'Melveny. She graduated from Columbus School of Law. Ms. Deitrick left O'Melveny in 2018.

s. **Bryan Hayme** is a Staff Attorney at O'Melveny. He graduated from Loyola Law School, Los Angeles.

t. **Joanne Wisner** is a Staff Attorney at O'Melveny. She graduated from New England School of Law.

u. **Kamilah Williams** is a former Staff Attorney at O'Melveny. She graduated from Catholic University of America. Ms. Williams left the firm in 2017.

v. **Marla A. Kelly** is a Staff Attorney at O'Melveny. She graduated from Georgetown University Law Center.

w. **Mary Cobb** is a Staff Attorney at O'Melveny. She graduated from University of California Hastings College of the Law and clerked for the Honorable James E. Seibert, United States Magistrate Judge for the Northern District of West Virginia, and externed for the Honorable Stuart R. Pollak, Associate Justice for the California Court of Appeal.

x. **Siddharth Goswami** is a Staff Attorney at O'Melveny. He graduated from University of Mumbai in 1999 and George Washington University Law School.

y. **Eve Soliman** is a former Paralegal at O'Melveny. She graduated from George Washington University Law School. Ms. Soliman left the firm in 2017.

z. **Kimberly Grotenrath** is a Senior Paralegal at O'Melveny. She graduated from Prince George's County Community College.

aa. **Timothée Charpié** is a Paralegal at O'Melveny. He graduated from Drew University and New York University.

7. The rate caps mandated by the PLRA (listed in the Motion) are generally significantly below what O'Melveny would ordinarily charge to paying clients. The sole exception is Eve

Soliman, a paralegal who provided support to the case in 2016 and 2017, whose market hourly rate of \$95 per hour in 2016 and \$150 per hour in 2017 fell below the PLRA cap. Accordingly, we used Ms. Soliman's prevailing hourly rate to calculate the fee request for her time, and otherwise used the PLRA rates for all timekeepers.

8. Attached as Exhibit D is a true and correct copy of O'Melveny's records itemizing the costs for online research services, which are recoverable as party of the request for attorney's fees. *See Tchemkou v. Mukasey*, 517 F.3d 506, 513 (7th Cir. 2008).

9. Attached as Exhibit E is a true and correct copy of Plaintiffs' Bill of Costs, which includes costs explicitly enumerated in 28 U.S.C. § 1920, as well as court fees for the admission of attorneys *pro hac vice*. I certify that the items claimed in the Bill of Costs are correct, the costs have been necessarily incurred in the case, and the services for which fees have been charged were actually and necessarily performed. Attached to the Bill of Costs as Exhibit E-1 is a true and correct copy of O'Melveny's records itemizing the costs included in the Bill of Costs. Attached to the Bill of Costs as Exhibit E-2 are true and correct copies of receipts reflecting certain costs listed in Exhibit E-1. For certain costs, such as copying and printing through O'Melveny's Copitrak and Lasertrak services, the entries listed in Exhibit E-1 were pulled directly from O'Melveny's accounting system.



10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 2, 2020

Respectfully submitted,

By: s/ David J. Leviss  
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